

LAW OFFICE OF

ELIZABETH EILENDER

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 11/14/08

225 Broadway, 24th Floor
NEW YORK, NEW YORK 10007

Q12 227-2174

January 16, 2008

BY FAX

Hon. Colleen McMahon
United States District Judge
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 640
New York, New York 10007

Fax: 212-805-6326

Re: *Spoilen v. Guardian Life*
S.D.N.Y. Docket no. 08 CV 305 (CM)

Dear Judge McMahon,

I represent the plaintiff in the above-referenced matter, which was removed by the defendant from state court on January 14, 2008.

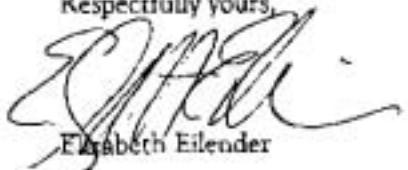
Although this action was commenced in state court last July, 2007, some six months ago, and thus we believe a good argument can be made that the removal was not timely, our primary interest is resolving this matter expeditiously, so we are electing not to get bogged down in a debate over remand.

On November 21, 2007 the state court judge who was then presiding over this case, Justice Charles E. Ramos of Supreme Court, New York County, issued a discovery scheduling order setting a swift schedule for this case pursuant to which all discovery was to be complete by February 29, 2008. A copy of that scheduling order is enclosed (Exhibit A) I am concerned that the defendant removed the case when it did in an effort to derail Justice Ramos' schedule, which had deadlines set for this week and next week. Removal should not be used as an artifice to gain extensions of a discovery schedule.

Hon. Colleen McMahon
January 16, 2008
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Accordingly, plaintiff respectfully requests that the Court direct that Justice Ramos' discovery schedule be adhered to despite the removal of this action.

Respectfully yours,



Elizabeth Eilender

cc: Robert D. Meade, Esq. by fax (914) 683-6956

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION

MARTIN SPOFFER PT

Plaintiff(s)

-against-

THE GUARANTY LIFE INSURANCE CO
Defendant(s)

Present:

LAMOS

Justice

TAS 53

Index No. 602-347/09

Standard
PRELIMINARY CONFERENCE
ORDER

APPEARANCES:

Plaintiff(s):

E. LIAKEI ET AL. ET AL. A. JAMES

Defendant(s):

B. GENEVIEVE PRATT SCHMITT

It is hereby ORDERED that disclosure shall proceed as follows:

(1) BILL OF PARTICULARS (See CPLR 3130(1)):

(a) Demand for a bill of particulars shall be served by _____ on or before _____

(b) Bill of particulars shall be served by _____ on or before _____

(2) DOCUMENT PRODUCTION:

(a) Demand for discovery and inspection shall be served by P-1A on or before 12/7/07

(b) Response to demand shall be served by P-1A on or before 12/7/07

including affidavits

All document requests limited to physical things and conduct, unless agreed by 4/4/99

(3) INTERROGATORIES:

(a) Interrogatories shall be served by All parties on or before 60 days before end of

(b) Answers to interrogatories shall be served by _____ on or before 30 days after

(4) DEPOSITION ON ORAL QUESTIONS:

shall be held

Plaintiff(s)

Defendant(s)

All Parties

*new parties
by 2/15/08*

on 3/1/08
by witness with knowledge as to the reasons for the non-payment of bills on 3/1/08

Notices and subpoenas to be served by 1/18/08

602347/07

(5) OTHER DISCLOSURE:

△ To produce complete file maintained for Davis
TAR-SOURCE including file COMPUTER RECORDS & ENVELOPES
RECORDED & INDEXED WITHIN 10 DAYS OF SERVICE DATE BY 12/17/07
OR MADE AVAILABLE TO DTF

△ To produce RULES & REGULATIONS WITH REGARD TO FORMS
OF CERTS FOR PHYSICAL TITLES IN EFFECT
BY 12/17/07

(6) If a motion relating to disclosure has raised additional disclosure issues, the parties shall:

b46-386-3229

from 2000 to present

Att'l Clerkbooks

(7) IMPLAIDER: Shall be completed on or before 30 days after last party appears

(8) END DATE FOR ALL DISCLOSURE: 2/29/08

(9) COMPLIANCE CONFERENCE: Shall be held on Jan 14, 2008 @ 4:30 PM in trials

(10) MOTIONS: Any dispositive motion(s) shall be made on or before 30 days after file 12/17/07

(11) NOTE OF ISSUE: II shall file a note of issue/certificate of readiness on or before 2/29/08

A copy of this order shall be served and filed with the note of issue.

THE DATES SET FORTH HEREIN MAY NOT BE ADJOURNED EXCEPT WITH APPROVAL OF THE COURT
SO ORDERED:

Dated: 11/21/07

J.S.C.
CHARLES E. RAMOS

ADDITIONAL DIRECTIVES

On addition to the directives set forth above, it is further ORDERED as follows:

By 12/17/07 △ To produce the documents supporting Plaintiff's position
that the Party of Plaintiff was issued a subpoena to produce 30 days of SMMI of
the authorizations from Sabotina to
△ To produce documents in accordance with Plaintiff's
notice to produce 3/2/07 by 12/17/07
including but not limited to 12/17/07 by 12/17/07
non-party witnesses to produce A21 for
FBI to obtain financial records of the Plaintiff in the case of *State v. Plaintiff*

All productions to be made on lead by date designated

SO ORDERED:

Dated: 11/31/07

J.S.C.

CHARLES E. RAMOS